



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

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Docket No. 9509-22

Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 6 February 2023. The names and votes of the panel members will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of the Board. Documentary material considered by the Board consisted of your application together with all material submitted in support thereof, relevant portions of your naval record, applicable statutes, regulations, and policies, to include the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice, or clemency determinations (Wilkie Memo).

You enlisted in the U.S. Marine Corps and began a period of active duty on 14 August 1974. On 5 November 1974, you received your first nonjudicial punishment (NJP) for violation of a lawful order. On 14 May 1975, you received a second NJP for dereliction in the performance of your duties. On 10 September 1975, you received a third NJP for being in an unauthorized absence (UA) status from watch. On 20 October 1975, you were counseled that you were not recommended for promotion due to your poor conduct and performance of duty.

Unfortunately, the documents related to your administrative separation are not in your official military personnel file (OMPF). In this regard, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. Your Certificate of Release or Discharge from Active Duty (DD Form 214), reveals that you were separated from the Marine Corps on 7 May 1976 with a General (Under Honorable Conditions) (GEN)

characterization of service, your narrative reason for separation is “Convenience of the Government,” and your reenlistment code is “RE-3C.”

You previously applied to the Naval Discharge Review Board for an upgrade to your characterization of service and were denied on 5 February 1979.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Wilkie Memos. These included, but were not limited to, your desire to upgrade your discharge characterization of service and contentions that: (1) when you were discharged you were told in six months it would be converted to Honorable and all you had to do was fill out for it, (2) you never paid any attention to your discharge until you had to apply for a security job, (3) you currently have a Department of Veterans Affairs disability rating of 80%, and (4) your discharge was by mutual consent as a result of your medical condition. For purposes of clemency and equity consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments or advocacy letters.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and found that your misconduct showed a complete disregard for military authority and regulations. Additionally, the Board considered the likely negative effect your conduct had on the good order and discipline of your command. Further, you are advised that there is no provision in law or regulations that allows for recharacterization automatically after six month or due solely to the passage of time. Finally, character of service is based, in part, on conduct and overall trait averages which are computed from marks assigned during periodic evaluations. Your proficiency average was 3.6. An average of 4.0 in proficiency was required at the time of your separation for a fully Honorable characterization of service. As a result, the Board concluded significant negative aspects of your active service outweighed the positive aspects and continues to warrant a GEN. Even in light of the Wilkie Memo and reviewing the record holistically, the Board did not find evidence of an error or injustice that warrants granting you the relief you requested or granting relief as a matter of clemency or equity. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

You are entitled to have the Board reconsider its decision upon the submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity is attached to all official records. Consequently, when

applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

2/22/2023

[REDACTED]

Executive Director

[REDACTED]